

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DREW STERRETT,

Plaintiff,

vs.

**HEATHER COWAN, JAY WILGUS,
STACY VANDER VELDE, THEODORE
SPENCER, SUSAN PRITZEL, MIKIKO
SENJA, E. ROYSTER HARPER, MALINDA
MATNEY, ANTHONY WALESBY and LAURA
BLAKE JONES, employees of the University of
Michigan, sued in his or her personal and official
capacities, jointly and severally,**

Case No. 2014-CV-11619
Hon. Denise Page Hood
Mag. Michael J. Hluchaniuk

Defendants.

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PLAINTIFF'S MOTION FOR LEAVE TO AMEND COMPLAINT

Plaintiff Drew Sterrett by his attorneys Deborah Gordon Law, in support of his Motion to Amend the Complaint, pursuant to FRCP 15(a), states as follows:

1. Plaintiff Drew Sterrett (hereafter “Plaintiff” or “Plaintiff Sterrett”) is a former student at the University of Michigan. Sterrett’s claims arise out of the disciplinary and other action taken against him by Defendants on the basis of alleged “sexual misconduct” and specifically the utter lack of due process afforded him prior to being deprived of his protected liberty and property interests.
2. Plaintiff never engaged in any “sexual misconduct” whatsoever. The allegation was false and there was never evidence sufficient to support a finding against Plaintiff.
3. Plaintiff’s initial complaint alleges violations under the due process clause of the Fourteenth Amendment to the United States Constitution and for free speech violations under the First Amendment to the United States Constitution brought pursuant to 42 U.S.C. §1983.
4. Plaintiff seeks to bring claims based on additional information discovered since the filing of the original complaint in April, 2014.
5. The amendment adds a cause of action for gender discrimination under Title IX of the Education Amendments of 1972, 20 U.S.C. §1681 and the Elliot Larsen Civil Rights Act, M.C.L.A 37.2402 in Count III, pp. 47-50.

6. The amendment adds the University of Michigan Regents as named Defendants.
7. This Court has not yet set cut-off dates for amending the complaint, completing discovery or filing motions.
8. Plaintiff therefore timely moves this Court to grant leave to amend his Complaint, which relief is to be “freely” granted under Federal Rule of Civil Procedure 15.
9. No prejudice will result to Defendants by this amendment; this claim could have been brought timely in a new case.
10. Because the amendment is appropriate, timely, and not futile, Plaintiff respectfully urges that it be accepted by the Court.
11. Concurrence was requested and not obtained.
12. Attached is Plaintiff’s proposed Amended Complaint. **Exhibit A, Amended Complaint.**

WHEREFORE, Plaintiff requests that this Honorable Court grant leave to amend and accept their attached First Amended Complaint under Federal Rule of Civil Procedure 15.

**DEBORAH GORDON LAW
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Dated: July 2, 2014

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DREW STERRETT,

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**PLAINTIFF'S BRIEF IN SUPPORT OF MOTION FOR
LEAVE TO AMEND COMPLAINT**

Plaintiff relies on the facts set forth in his Motion, and FRCP 15 (a), which provide that leave to amend a pleading should be “freely given when justice so requires”; and applicable case law. *See Forman v. Davis*, 371 U.S. 178, 182, 83 S.Ct. 227, 9 L.Ed.2d 222 (1962) (absent bad faith, dilatory motive, or repeated failures to cure, the only circumstances justifying denying leave to amend are undue prejudice to the opposing party, or futility); *see also Moore v. Paducah*, 790 F.2d 557 (6th Cir. 1986) (to deny leave to amend requires a “significant showing” of prejudice to the party opposing the motion). Plaintiff seeks to add a Title IX and an Elliot Larsen Civil Rights Act gender discrimination claim. This claim alleges that based on Plaintiff’s gender, he was treated differently throughout the investigation, and that the result was pre-ordained. *See Wells v. Xavier Univ.*, 2014 U.S. Dist. LEXIS 31936 (S.D. Ohio Mar. 11, 2014) (holding that Plaintiff’s Title IX “erroneous outcome claim” was sufficient to survive a 12(b)(6) motion because Plaintiff alleged that “Defendants having rushed to judgment” dismissed Plaintiff from school on the basis of his gender).

WHEREFORE, Plaintiff requests an Order granting Plaintiff leave to file his Amended Complaint, **Exhibit A** attached.

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Dated: July 2, 2014

CERTIFICATE OF SERVICE

On July 2, 2014 the foregoing document was filed with the Clerk of the Court via the ECF system and a copy of same sent to the attorneys of record in this matter via the ECF system.

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